

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LUFTHANSA CARGO AG, et al.,

Plaintiffs,

- against -

TOTAL AIRPORT SERVICES, INC.,

MEMORANDUM & ORDER

12 CV 4869 (RJD) (RLM)

Defendant.

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DEARIE, District Judge

Before the Court is an appeal from Magistrate Judge Roanne L. Mann's order granting in part and denying in part defendant Total Airport Services, Inc.'s motion for reconsideration of her prior ruling denying a motion to reopen fact discovery. Despite the fact that Magistrate Judge Mann largely denied defendant's motion, *plaintiffs* are apparently dissatisfied and now appeal the portion of the order deferring until trial a ruling on the admissibility of the evidence gathered during the September 30, 2014 aircraft inspection. In short, plaintiffs want a ruling on admissibility now. Today, however, is not plaintiffs' day.

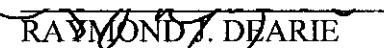
Plaintiffs argue that allowing defendant to introduce evidence from the aircraft inspection will severely prejudice plaintiffs because they will not have had an opportunity to collect rebuttal evidence or expert testimony. Notably, Magistrate Judge Mann did *not* rule that this evidence is admissible. Rather, she deferred the issue of admissibility until trial so that this Court could consider the testimony already adduced at trial in assessing the admissibility of the proof in question. That approach makes good sense. If introduction of this evidence would be unfairly prejudicial to plaintiffs, then, when the time comes, the Court can bar its admission as well as any expert testimony based on it.

I affirm Magistrate Judge Mann's ruling without qualification.

SO ORDERED.

Dated: Brooklyn, New York
November 21, 2014

/s/ Judge Raymond J. Dearie


RAYMOND J. DEARIE
United States District Judge